

REMARKS

A. Independent Claims

In the Office action claims 1 and 33 were rejected as defining inventions that are allegedly obvious over Leet in view of McIlroy et al. To more clearly define the inventions, claims 1 and 33 were amended. Amendments to the remaining claims were not necessitated by information material to the patentability of the claims prior art or otherwise. Rather, the amendments to claims other than claims 1 and 33 were directed to ensure that the requirements of 35 USC section 112, second paragraph were satisfied. No new matter has been added by these amendments.

It is Applicant's contention that the prior art does not teach or suggest the inventions defined by claims 1 and 33, because, *inter alia*, the prior art taken together or separately fail to discuss comparing a medical practitioner diagnosis with a suggested diagnosis. As a result, there would be no suggestion to provide the alarm upon determining that the medical practitioner diagnosis does not match the suggested diagnosis. More specifically, the alarm identified in Leet and referred to in the Office action was provided by a pharmacist: a person not legally qualified to provide a medical diagnosis. Assuming, *arguendo*, that the Office action is correct in asserting that the information recited in column 30, lines 32-38 is directed to alerting in response to identifying departures from a drug protocol for a particular diagnosis, i.e., not alerting in response to determining a departure from a diagnosis. Claims 1 and 33, however, are directed to providing an alarm in response to a determination that a medical practitioner's diagnosis does not match a suggested diagnosis based upon new patient information related to standard diagnosis criteria identifying standard criteria for deriving a suggested diagnosis. This is completely missing from Leet.

Moreover, McIlroy et al. are not directed to comparing a medical practitioner diagnosis with a suggested diagnosis. This is seen with reference to the text bridging column 17, line 54 to column 8, line 12. Specifically, in that text, McIlroy et al. state that the system 300 consists of four phases: (1) the entry phase; (2) the question/data collection phase; (3) the assessment phase; and (4) the final recommendation phase. Following the data collection phase, the assessment phase occurs, which concerns treatment or some other action. There is no indication that McIlroy et al. consider whether a medical practitioner's diagnosis comports with a suggested

diagnosis. Rather, the primary purpose of the assessment phase “is to initiate and facilitate comparison and evaluation, if there is a difference between the final recommendation treatment and guideline treatment option.” (See column 8, lines 43-46.) Without comparing a medical practitioner diagnosis with a suggested diagnosis, there is no suggestion to provide an alarm in response to determining that the medical practitioner diagnosis does not match the suggested diagnosis based upon new patient information related to standard diagnosis criteria identifying standard criteria for deriving a suggested diagnosis. Therefore, based upon the foregoing, Applicant respectfully contends that a *prima facie* case of obviousness is not present with respect to claims 1 and 33, as amended.

B. Dependent Claims

Considering that the dependent claims include all of the features of the independent claims from which they depend, the dependent claims are patentable to the extent that the independent claims are patentable. As a result, Applicant respectfully contends that *prima facie* case of neither anticipation nor obviousness is present with respect to the dependent claims for the reasons set forth above with respect to the independent claims from which they depend.

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C. Conclusion

Applicant respectfully requests further examination in view of the amendments and remarks set forth above. A Notice of Allowance is earnestly solicited. If the Examiner has any questions or needs any additional information, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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Jan Steele